



## **Agricultural Marketing Service**

### **7 CFR Part 1206**

**[Doc. No. AMS-SC-21-0101]**

#### **Adjustments to Mango Board Representation; Withdrawal of Proposed Rule**

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Proposed rule; withdrawal.

**SUMMARY:** The Agricultural Marketing Service (AMS) withdraws a proposed rule recommended by the National Mango Board (Board) that would have adjusted the Mango Promotion, Research, and Information Order (Order) to allocate the seven foreign producer Board seats to the top five mango exporting countries, based on mango volume exported to the United States, with an additional seat allocated to the top exporting country, and one at-large seat. In addition, the proposal would have required no more than one Board member be employed by or be affiliated with the same company. After reviewing and considering the comments received, the proposed rule is being withdrawn.

**DATES:** The proposed rule published at 87 FR 65683 on November 1, 2022, is withdrawn as of July 31, 2023.

**FOR FURTHER INFORMATION CONTACT:** George Webster, Marketing Specialist, Mid Atlantic Branch, Market Development Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue, SW, Room 1406-S, Stop 0244, Washington, DC 20250-0244; telephone: (202) 365-4172; or email: [George.Webster@usda.gov](mailto:George.Webster@usda.gov).

**SUPPLEMENTARY INFORMATION:** This withdrawal is issued under the Order (7 CFR part 1206). The Order is authorized under the Commodity Promotion, Research, and Information Act of 1996 (Act) (7 U.S.C. 7411-7425).

The Board administers the Order and is comprised of 18 members, including eight importers, two domestic producers, one first handler, and seven foreign producers.

This action withdraws a proposed rule published in the **Federal Register** on November 1, 2022 (87 FR 65683), to revise several sections of the Order's representation requirements. The proposed rule's comment period was open from the publication date of November 1, 2022, to January 3, 2023. The proposed rule would have allocated the seven foreign producer Board seats to the top five mango exporting countries, based on mango volume exported to the United States, with an additional seat allocated to the top exporting country, and one at-large seat. In addition, the proposal would have required no more than one Board member be employed by or be affiliated with the same company. The proposed changes were intended to modify the Order's requirements to ensure that the countries exporting the most mangos to the U.S. would be represented on the Board, and to broaden the diversity of members serving on the Board.

#### Comments Received

During the proposed rule's 60-day comment period, AMS received 58 comments, which may be viewed on the internet at <https://www.regulations.gov>. Of the comments received, 32 comments (roughly 55%) opposed the proposed rule, 24 comments (roughly 41%) were in favor of the proposed rule, and two comments (roughly 3%) were non-substantive with regard to the merits of the proposal.

*Comments in Opposition:* During the public comment period, commenters identified anticipated adverse effects to Mexico, the largest country based on mango volume imported into the United States (62.9 percent average from 2019-2021). Approximately 50 percent of all comments cited the proposed rule's negative impact to Mexico's ability to have proportionate representation on the

Board. These commenters claimed that the proposed rule, if effectuated, would give countries with smaller import volume guaranteed representation, thereby limiting the seats available for Mexican foreign producers.

AMS also reviewed comments opposing the proposed change that would require no more than one Board member be employed by or be affiliated with the same company. Comments expressed concern that many mango importers work with a multitude of companies and growers throughout the year, and the proposed changes would greatly restrict the pool of candidates to serve on the Board. Commenters also explained that the Board has had more than one member from a company serve concurrently multiple times in the past, and there has yet to be any conflict arising from the situation. One comment expressed concern that the proposed change would place additional burden on the Board's domestic representation, and limiting how many representatives from one company or related companies can serve on the Board concurrently would further shrink an already limited pool of candidates.

*Comments in Support:* In general, 24 commenters were in favor of the proposed rule, and agreed that the changes would allow for a more balanced foreign producer representation on the Board and provide opportunities for a more diverse group of members to serve. One commenter explained that each of the top five importing countries are the main supplier of mangoes to the United States at different times of the year, and by having broad representation from those countries on the Board, the entire industry could benefit from gaining the unique perspective of that region.

Also, one commenter mentioned that limiting membership to one member per affiliated company would guard against company-centric voting blocks that could potentially benefit one company more than the entire industry. Another

comment said that the Board should further limit membership, so no two members of the same family can serve concurrently.

*Non-Substantive Comments:* Two comments received during the public comment period were non-substantive with regard to the merits of the proposal and were therefore not considered during the review process.

After reviewing and considering the comments submitted by stakeholders that are regulated by the Order, AMS determined that the concerns raised were significant enough to not move forward with the proposed rule at this time and to direct the Board to conduct further outreach. Accordingly, the proposed rule to adjust the National Mango Board's representation in the Order, published in the **Federal Register** on November 1, 2022 (87 FR 65683), is hereby withdrawn.

#### **List of Subjects in 7 CFR Part 1206**

Administrative practice and procedure, Advertising, Consumer information, Mango promotion, Marketing agreements, Reporting and recording requirements.

**Authority:** 7 U.S.C. 7411-7425 and 7 U.S.C. 7401.

**Erin Morris,**

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